

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

RAYMOND JOSEPH ZBYLUT,)	NO. 8:10CV0060
)	
Plaintiff,)	
)	
vs.)	
)	AFFIDAVIT OF
CITY OF OMAHA, et al.,)	COREY CLEMENTS
)	
Defendants.)	
STATE OF NEBRASKA)	
) ss.	
COUNTY OF DOUGLAS)	

Corey Clements, being first duly sworn on oath, deposes and states:

1. I am a police officer with the City of Omaha. I have held that position for approximately five years.
2. I have personal knowledge of the information and events contained in this affidavit.
3. On January 22, 2008 I was working on routine traffic patrol in my capacity as an Omaha Police officer driving a marked police cruiser with my partner, Tyler Stricker, who was in the passenger seat.
4. On January 22, 2008 my partner and I were dispatched to a call in the vicinity of 39th and "L" Streets in Omaha, Nebraska at approximately 1730 hours.
5. On our way to that call, we drove southbound on 13th Street. On 13th Street just before Spring Lake Drive, there was some sort of road construction and the two lane street narrowed to one lane (right lane ended). Drivers were advised of such lane closure through signs, barricades and a directional arrow.



6. I observed traffic to be quite heavy due to it being rush hour.

7. As we drove southbound on 13th Street, I observed directly in front of our cruiser a Chevy C3500 flatbed truck.

8. As the right lane ended near Spring Lake Drive, I observed the truck attempting to merge into the left traffic lane.

9. Due to the bumper to bumper traffic, there was no room for the utility truck to merge, but I observed the truck driver attempting to force his way into the left lane.

10. It was clear to me that this truck was going to be involved in a collision, so I turned on my dashboard cruiser camera to videotape the incident.

11. As a warning to the truck driver, Officer Stricker deployed the air horn on our cruiser.

12. Despite our warning, the truck driver continued to force his way into the left lane ultimately striking another vehicle, a minivan.

13. I exited my vehicle and walked toward the driver's door of the truck to make contact with the driver.

14. As I approached the truck, the driver, later identified as Raymond Joseph Zbylut, was shouting and waving his fist at the driver of the minivan. At this time he was still inside his vehicle, but his window was rolled down and his fist was outside the window.

15. Officer Stricker exited the cruiser and made contact with the people in the minivan.

16. When I approached the driver's door, Zbylut exited the vehicle and was still shouting. Consequently, I had to raise my voice over his to give him verbal commands to calm down.

17. Zbylut seemed convinced that the accident was the fault of the minivan driver and I explained to him that I observed the entire incident and it was his fault because I saw him drive right into the minivan without yielding.

18. My interaction with Zbylut at the side of the vehicle was very short; approximately 10 seconds or less. I did not feel that was safe for me or him due to the proximity of other vehicles so I asked him to move to the back of the vehicle. In addition, I found his behavior to be strange.

19. As we moved to the back of his vehicle, Zbylut continued to argue with me about who was at fault and turned to me in somewhat of a fighting stance.

20. I advised Zbylut not to "square off at me."

21. When we got to the back of the truck, Zbylut continued to argue with me about who was at fault. I pointed out to him that his turn signal was not on, which is clear from the video.

22. I asked Zbylut for his driver's license. Instead of a driver's license, he handed me a Veteran's card. I handed it back to him and told him that's not the information I wanted. He then handed me a driver's license.

23. Zbylut and I then moved toward the passenger side of the truck to obtain his vehicle registration information.

24. While I was checking his information, Zbylut sat in his truck.

25. During that time, he evidently used the cell phone on his person to call

9-1-1 and request a supervisor come to the scene. Sgt. Stracke showed up a short time later.

26. At no time during my interaction did I take Zbylut to the front of his truck.

27. At no time during my encounter with Raymond Joseph Zbylut on January 22, 2008 did I ever touch him in any way other than possible incidental touches as he handed me his identification or proof of insurance.

28. At no time during my encounter with Raymond Joseph Zbylut did I use any type of force whatsoever on him.

29. On January 22, 2008, I completed a "Reexamination Report" to be filed with the State Department of Motor Vehicles. The reason I completed that form was because I believed Mr. Zbylut's behaviors were strange, showed signs of road rage and I was concerned about whether he was fit to operate a motor vehicle. A true and accurate copy of that report is attached hereto as Exhibit 1A.

30. Prior to January 22, 2008, I had never encountered Raymond Joseph Zbylut and other than court appearances, I have not encountered him since.

31. I have previously seen and reviewed the DVD of the cruiser camera and I believe that is a true and accurate depiction of events as I observed them on January 22, 2008.

32. I have not nor do I have the capabilities to edit the video from the cruiser camera.

Further affiant saith not.

Corey Clements

SUBSCRIBED and sworn to before me this ____ day of December, 2010.

Notary Public

ORIGINAL

REEXAMINATION REPORT

Director
Department of Motor Vehicles
Examining Division, P.O. Box 94789
Lincoln, NE 68509

Dear Director:

As provided for in Nebraska Statute 60-4,118, I request that ZBYLUT, Raymond J.
of 10605 Nichols, St. Omaha NE, Nebraska license number 112452516 and date of birth
4-5-55 ⁶⁸¹¹⁴ be recalled for examination for, in my opinion, he or she is not capable of operating
a motor vehicle safely over the highways of the State of Nebraska for the following reasons: (Please give a
detailed explanation of the reasons for reexamination. If the reexamination request is the result of an
accident, the Department requests that an Accident Report be attached if possible.)

Officers Clements #1843 and Stricker #1828 (Omaha Police Dept.)
observed ZBYLUT merge left in heavy traffic without using turn
signals, yielding to traffic in the lane, using horn from vehicle and
pumping fist at victim, causing a property damage accident.
Officers made contact with ZBYLUT and observed a very angry, erratic
and erratic behavior. ZBYLUT made statements to officers multiple
times that the accident was the other driver's fault. Officers observed
a classic example of road rage directed at the victim as well as
officers.


RB# 97868-N * See Accorno Report *

1843

Badge No.

1-22-08
Date

Signature of Person Requesting Reexamination

Omaha Police Dept., Omaha NE
Law Enforcement Agency

Approved by: L.S. M. M. Lee #1103

Supervisor or Police Chief or County Sheriff

EXHIBIT

1A